



AG REQUEST LEGISLATION – 2009 SESSION

CLARIFYING THE SEXUALLY VIOLENT PREDATOR STATUTE

BACKGROUND:

Enacted in 1990, the state's Sexually Violent Predator (SVP) statute grants Washington the authority to detain the state's most dangerous sex offenders at the state's special commitment center (SCC) if prosecutors can prove beyond a reasonable doubt:

- 1) The offender committed a sexually violent offense;
- 2) The offender suffers from a mental abnormality that causes the offender to have serious difficulty controlling his sexually violent behavior; and
- 3) The offender's mental disorder makes him more likely than not to engage in predatory acts of violence again if he is not confined to a secure facility.

Currently, there are approximately 275 offenders who have been detained under the SVP statute. The AGO's SVP Unit prosecutes all SVP cases in Washington except those filed in King County. The 18 offenders the Unit petitioned to commit in 2006 demonstrate the clear and present danger SVPs pose. These 18 offenders sexually assaulted 158 different victims—an average of nine victims per offender-- between 1958 to 2003. The victims ranged in age from 2 to 75 years old, with an average age of 12. These offenders had been convicted of a total of 70 sex offenses before the AGO petitioned for their commitment.

THE PROBLEMS:

In May 2008, the state Supreme Court reversed the civil commitment of an offender who committed his two sexually violent offenses (attempted sexual abuse in the first degree and kidnapping) in Oregon but was serving his most recent sentence for a sex offense (burglary and indecent exposure) committed in Washington. The court ruled that where an individual has not been convicted of a sexually violent offense in Washington, the state does not have jurisdiction to file a petition in Thurston County. In dicta, the court suggested that the state could re-file the petition in a county where the individual had been convicted of another crime. The AGO's SVP unit has refiled all of the affected cases. However the jurisdictional issue remains an open question. This alerted the office to a needed change in the law to address the open question of where the civil commitments of out-of-state offenders must be filed

The civil commitment law also includes other anomalies that make it difficult for the unit to protect the community from the release of these dangerous violent offenders, including difficulties in receiving case records, application of courts fees higher than those charged to county prosecutors, problems with evidence admissibility and others.

LEGISLATION:

The Attorney General's Office requests modifications to the state's SVP law to:

- Clarify where civil commitment proceedings may be filed, especially in cases where the sexually violent offense occurred outside of Washington;
- Make it easier for the AGO to receive court records;
- Prevent the AGO from being charged court fees in excess of those charged to county prosecutors;
- Address evidence admissibility; and
- Make additional changes to the civil commitment statute.